SPMC

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

08 MAR 10

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY CP DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Daniel DUQUE-Medina,** Defendant	Magistrate Docket No. '08 MJ 0737
	COMPLAINT FOR VIOLATION OF:
	Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **March 7, 2008** within the Southern District of California, defendant, **Daniel DUQUE-Medina,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
Ismael A. Canto
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **10th** DAY OF **MARCH, 2008**

~~Leo S. Papas~~
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Daniel DUQUE-Medina

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On March 7, 2008, Border Patrol Agent M. Barrera was conducting roving patrol operations on Interstate 5. The San Clemente Border Patrol Checkpoint was not operational at that time. Agent Barrera observed a grey Ford Explorer with two visible occupants. The vehicle was traveling at a high rate of speed on lane one and Agent Barrera caught up to the vehicle. Agent Barrera observed the occupants were having a conversation and when the female passenger saw the marked Border Patrol vehicle, she became very rigid in posture. Agent Barrera traveled next to the vehicle for a short distance and the driver slowed down in order to avoid a further visual contact. This behavior is consistent with people trying to avoid contact with Border Patrol Agents.

Agent Barrera conducted a vehicle stop near the San Clemente checkpoint and just north of the San Clemente checkpoint. Agent Barrera identified himself as a Border Patrol Agent and conducted an Immigration inspection on the occupants. Agent Barrera questioned the occupants as to their citizenship in the Spanish language and the passenger presented a Mexican Electoral card and claimed she was a citizen of Mexico illegally in the United States without any immigration documents allowing her to enter or reside legally.

Agent Barrera then questioned the driver identified as defendant **Daniel DUQUE-Medina** as to his citizenship and also claimed to be a citizen and national of Mexico illegally in the United States without any immigration documents allowing him to enter or reside legally.

Both subjects were arrested and transported to the San Clemente Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **September 25, 2006** through **San Ysidro, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

Executed on March 9, 2008 at 10:00 a.m.

James E. Bailey
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of **two** page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **August 7, 2008**, in violation of Title **8**, United States Code, Section **1326**.

Leo S. Papas
United States Magistrate Judge

3/9/08 - 1250P
Date/Time